

**Petition for Extension of Time**

The applicant herewith petitions the Director of the United States Patent and Trademark Office to extend the time two months for reply to the Office action dated September 2, 2005. Please Charge Applicant's deposit account number as set forth in the Transmittal. Any deficiency or overpayment should be charged or credited to Applicant's deposit account.

### Remarks

This communication is considered fully responsive to the Office Action mailed September 9, 2005 (hereinafter referred to as the "third Office Action"). Claims 1-21 currently stand rejected. No claims are amended. No claims are cancelled. No new claimed are added. Applicant respectfully requests reexamination and reconsideration of the claims.

### Claim Rejections - 35 U.S.C. 103(a) - Nolan and Kanada

The Office Action rejected claims 1, 4, 5, 8, 13, 14, and 16-19 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,640,278 to Nolan et al. (hereinafter referred to as "Nolan") in view of U.S. Patent Publication No. 2001/0039576 to Kanada (hereinafter referred to as "Kanada"). Applicant respectfully traverses this rejection.

Claim 1 positively recites "receiving an incoming transaction at said network storage device" and "assigning a priority to said incoming transaction relative to other incoming transactions at said network storage device based at least in part on a usage policy" (emphasis added). Nolan discloses indicating a relative priority of a background hot copy process with respect to the data access requests from the client processor. Kanada discloses a network policy transmission method from a policy server to a network node. Both references fail to teach or suggest at least the recitations of claim 1.

The Office Action cites to col. 27, lines 65-67 and col. 28, line 66 to col. 29, line 35 in Nolan as disclosing these recitations. These citations discuss handling of the background hot copy process. At col. 27, lines 65-67, Nolan

discloses assigning a priority to the hot copy process relative to fulfilling data access requests from the client processor. At col. 28, line 66 to col. 29, line 35, Nolan discloses accepting user input to initiate a hot copy process. However, the user input is not an incoming transaction that is prioritized relative to other incoming transactions. Therefore, these recitations fail to disclose assigning priority to any of the incoming transactions relative to the other incoming transactions.

For at least the foregoing reasons claim 1 is believed to be allowable over the cited references and Applicant respectfully requests withdrawal of the rejection of claim 1.

Claim 4 depends from claim 1, which is believed to be allowable. Therefore, claim 4 is also believed to be allowable for at least the same reasons as claim 1; and withdrawal of the rejection of claim 4 is respectfully requested.

Claim 5 positively recites "distributing said usage policy to said network storage device for prioritizing a plurality of incoming transactions received at said network storage device relative to one another" (emphasis added). The Office Action again cites to col. 28, line 66 to col. 29, line 35 in Nolan. However, this citation fails to disclose at least these recitations as discussed above for claim 1. Therefore, claim 5 is believed to be allowable and withdrawal of the rejection of claim 5 is respectfully requested.

Claim 8 positively recites "program code for prioritizing said plurality of incoming transactions relative to one another based on said usage policy" (emphasis added). The Office Action again cites to col. 28, line 66 to col. 29, line 35 in Nolan. However, this citation fails to disclose at least these

recitations as discussed above for claim 1. Therefore, claim 8 is believed to be allowable and withdrawal of the rejection of claim 8 is respectfully requested.

Claim 13 positively recites "program code for defining a usage policy for prioritizing said plurality of incoming and outgoing transactions relative to one another" (emphasis added). The Office Action again cites to col. 28, line 66 to col. 29, line 35 in Nolan. However, this citation fails to disclose at least these recitations as discussed above for claim 1. Therefore, claim 13 is believed to be allowable and withdrawal of the rejection of claim 13 is respectfully requested.

Claims 14 and 16-19 depend from claim 13, which is believed to be allowable. Therefore, claims 14 and 16-19 are also believed to be allowable for at least the same reasons as claim 13. Withdrawal of the rejection of claims 14 and 16-19 is respectfully requested.

**Claim Rejections - 35 U.S.C. 103(a) - Nolan, Kanada, and Gibson**

The Office Action rejected claims 2, 6, 9, and 15 under 35 U.S.C. 103(a) as being unpatentable over Nolan in view Kanada and further in view of the reference entitled "Network Attached Storage Architecture" by Gibson, et al. (hereinafter referred to as "Gibson"). Applicant respectfully traverses this rejection.

Claim 2 depends from claim 1, which is believed to be allowable as discussed above. Claim 6 depends from claim 5, which is believed to be allowable as discussed above. Claim 9 depends from claim 8, which is believed to be allowable as discussed above. Claim 15 depends from claim 13,

which is believed to be allowable as discussed above. Gibson also fails to discuss at least these recitations. Therefore, claims 2, 6, 9, and 15 are also believed to be allowable for at least the same reasons as the base claims and withdrawal of the rejection of claims 2, 6, 9, and 15 is respectfully requested.

**Claim Rejections - 35 U.S.C. 103(a) - Nolan, Kanada, and Comer**

The Office Action rejected claims 3, 7, 10, 11, 20, and 21 under 35 U.S.C. 103(a) as being unpatentable over Nolan in view Kanada and further in view of the reference entitled "Internetworking with TCP/IP" by Comer (hereinafter referred to as "Comer"). Applicant respectfully traverses this rejection.

Claim 3 depends from claim 1, which is believed to be allowable. Comer also fails to discuss at least the recitations in claim 1. Therefore, claim 3 is also believed to be allowable for at least the same reasons claim 1. Withdrawal of the rejection of claim 3 is respectfully requested.

Claim 7 depends from claim 5, which is believed to be allowable. Comer also fails to discuss at least the recitations in claim 5. Therefore, claim 7 is also believed to be allowable for at least the same reasons claim 5. Withdrawal of the rejection of claim 7 is respectfully requested.

Furthermore, claim 7 positively recites "said usage policy comprises a number of rules, each including meta data and a corresponding priority." The Office Action relies on Figure 4A and the discussion in paragraph 21 of Kanada. Figure 4A includes a rule type "Scheduling" which points to table E in Figure 4B indicating the parent scheduling label is PrioritySchedul.

PrioritySchedul is a scheduling method or algorithm that may be implemented, but is not a priority in itself. See, e.g., page 5, paragraph 0086. Paragraph 0021 discusses adding, removing, or updating rules, but does not disclose rules including meta data and a corresponding priority. The Office Action also relies on Figure 3B (element 381) and the discussion in paragraph 152 of Canada. Figure 3B and paragraph 152 reference disclose that the parent scheduling label is PrioritySchedul, but again this is a scheduling method or algorithm, not a priority in itself. Therefore, none of these citations teach or suggest the recitations of claim 7, and withdrawal of the rejection of claim 7 is respectfully requested.

Claims 10-11 depend from claim 8, which is believed to be allowable as discussed above. Comer also fails to discuss at least the recitations in claim 8. Therefore, claims 10-11 are also believed to be allowable for at least the same reasons as claim 8. Withdrawal of the rejection of claims 10-11 is respectfully requested.

In addition, claim 10 positively recites "said usage policy comprises a number of rules which define a number of priorities for a number of meta data" and "program code assigns one of said priorities to one of said transactions when said transaction satisfies at least one of said rules." As discussed above for claim 7, the citations relied upon in the Office Action disclose a scheduling algorithm, but do not disclose rules which define a number of priorities. For at least these reasons, withdrawal of the rejection of claim 10 is respectfully requested.

Claim 20 positively recites "means for prioritizing said number of incoming and outgoing transactions based at least in part on said meta data, wherein said prioritizing means resides at said network storage device." Nolan and Kanada fail to teach or suggest at least these recitations as discussed above for claim 1. Comer also fails to discuss at least the recitations in claim 20. Accordingly, withdrawal of the rejection of claim 20 is respectfully requested.

Claim 21 depends from claim 20, which is believed to be allowable as discussed above. Therefore, claim 21 is also believed to be allowable for at least the same reasons as claim 20. Withdrawal of the rejection of claim 21 is respectfully requested.

**Claim Rejections - 35 U.S.C. 103(a) - Nolan, Kanada, and Mahon**

The Office Action rejected claims 12 under 35 U.S.C. 103(a) as being unpatentable over Nolan in view Kanada and further in view of the reference entitled "Requirements for a Policy Management System" by Mahon, et al. (hereinafter referred to as "Mahon"). Applicant respectfully traverses this rejection.

Claim 12 depends from claim 8, which is believed to be allowable as discussed above. Mahon also fails to discuss at least the recitations in claim 8. Therefore, claim 12 is also believed to be allowable for at least the same reasons as claim 8. Withdrawal of the rejection of claim 12 is respectfully requested.

**Conclusion**

The Applicant respectfully requests that a timely Notice of Allowance be issued in this matter.

Respectfully Submitted,

Dated: Feb 1, 2006

By: Mark D. Trenner

Mark D. Trenner  
Reg. No. 43,961  
(720) 221-3708